

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**CALUMET LUBRICANTS CO.,  
LIMITED PARTNERSHIP  
AI # 1214**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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\* **Enforcement Tracking No.**  
\* **MM-CN-02-0043**  
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**SETTLEMENT**

The following Settlement is hereby agreed to between Calumet Lubricants Co., Limited Partnership ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

**I.**

Respondent is a Limited Partnership who operates a petroleum refinery facility at or near 3333 Midway Avenue in Shreveport, Caddo Parish, Louisiana ("the Facility").

**II.**

On June 13, 2002, the Department issued a Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement No. MM-CN-02-0043, to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates a petroleum refinery known as the Calumet Shreveport Refinery located at or near 3333 Midway Avenue in Shreveport, Caddo Parish,

Louisiana. The Respondent purchased the Shreveport refinery from Pennzoil-Quaker State Company on May 1, 2001. The Respondent retained and currently operates under Air Quality Permit No. 0500-00005-07 issued on or about August 9, 1996, to Pennzoil-Quaker State Company. In addition, Pennzoil-Quaker State applied for a pre-construction and operating Title V permit addressing the sulfur recovery units and the fluidized catalytic cracking unit (FCCU). Title V Permit No. 2670-V0 was issued on June 20, 2000. After acquiring the facility, the Respondent noted in a letter dated June 6, 2001, that the permitted activities described in the permit are not indicative of the current or future facility configuration and requested that the Department rescind Air Permit No. 2670-V0.

As a result of a release occurring on November 7, 2001, and odor complaints from citizens near the refinery, the Department conducted an inspection. An inspection conducted on or about November 8, 2001, noted that the Respondent had changed from using Tullios crude (a lower sulfur crude feedstock) to using Main Pass 299 crude (a higher sulfur crude feedstock). To obtain more detailed information, the Department issued an Administrative Order (AE-AO-01-0384) on November 21, 2001. The Administrative Order required the Respondent to submit information to the Department in regard to the release of the crude oil and the change in crude feedstock. The Department received a response from the Respondent dated December 10, 2001, providing the requested information.

On December 17, 2001, a file review of the Calumet Shreveport Refinery was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violation was noted during the course of the file review:

The Respondent is required to maintain best practical housekeeping and maintenance practices at the highest possible standards to reduce the quantity of organic compounds emissions. Good housekeeping practices include the development of a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound (VOC) emissions from the facility. The Department's review of the housekeeping plan developed by the Respondent noted that the plan was deficient in that it did not address the prevention or reduction of VOC emissions from the facility. This is a violation of LAC 33:III.2113.A.4 and Section 2057(A)(2) of the Act.

Between January 23, 2002, and January 25, 2002, inspections of the Calumet Shreveport Refinery were performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the inspections:

- A. Storage Tank Nos. T-55, T-56, T-57, and T-58 are tanks with external floating roofs subject to the Louisiana Refinery MACT Determination dated July 26, 1994. The Shreveport Refinery consolidated the following programs: LAC 33:III.2121, 40 CFR 63 Subpart CC and the Louisiana MACT Determination for Refineries, to the Louisiana Refinery MACT Determination under the Louisiana Fugitive Emission Program Consolidation in the Source Notice and Agreement signed by the Respondent on March 18, 1998. Paragraph A.3 of the Louisiana Refinery MACT Determination for Storage Tanks requires that storage tanks meet the requirements of LAC 33:III.2103. At the time of the inspection it was noted that the last secondary seal gap measurements for Storage Tank No. T-58 were made in June 2000. The last secondary seal gap measurements for Storage Tank Nos. T-55, T-56, and T-57 were made in September 2000. The Respondent is required to have secondary seal gap measurements made annually as specified in LAC 33:III.2103.D.2.e. Based on the dates of the last seal gap measurements made and the date of the inspection, the Respondent failed to have secondary seal gap measurements made annually. This is a violation of LAC 33:III.2103.D.2.e as required by the Louisiana Refinery MACT Determination. This is also a violation of Specific Condition No. 17 letter B of Air Permit No. 0500-00005-07, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to

Air Toxics Compliance Plan No. CC92061) approved July 5, 1995, LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.

- B. Storage Tank Nos. T-26, T-27 and T-53 are tanks with external floating roofs subject to NSPS Subpart Kb. During the review of inspection records, it was noted that the product stored in the tanks was changed from gasoline blending components to naptha and therefore was emptied and refilled. The Respondent failed to notify the Administrator in writing at least 30 days prior to the filling or refilling of the storage vessel. This is a violation of 40 CFR 60.113b(a)(5) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 11 of Air Permit No. 0500-00005-07, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- C. It was noted during the inspection that one of the roof hatches was open on Storage Tank No. 27. The Respondent failed to have all covers on access hatches bolted except when in use. This is a violation of 40 CFR 60.112b(a)(1)(iv) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Condition No. 11 of Air Permit No. 0500-00005-07, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- D. During the inspection it was noted that on both Storage Tank No. T-26 and Storage Tank No. T-27, the secondary seal was flipped up and not in contact with the wall of the tank. The Respondent failed to have the secondary seal installed above the primary seal so that it completely covers the space between the roof edge and the tank wall. This is a violation of 40 CFR 60.113b(b)(4)(ii)(A) which language has been adopted as a Louisiana regulation in LAC 33:III.3003 and Section 2057(A)(2) of the Act.
- E. Storage Tank No. T-76 is a tank with an external floating roof subject to the Louisiana Refinery MACT Determination. The Shreveport Refinery consolidated the following programs: LAC 33:III.2121, 40 CFR 63 Subpart CC and the Louisiana MACT Determination for Refineries, to the Louisiana Refinery MACT Determination under the Louisiana Fugitive Emission Program Consolidation in the Source Notice and Agreement signed by the Respondent on March 18, 1998. Paragraph A.3 of the Louisiana Refinery MACT Determination for Storage Tanks requires that storage tanks meet the requirements of LAC 33:III.2103. An annual secondary seal inspection was conducted on August 7, 2001, for Storage Tank No. T-76. Results showed that

Storage Tank No. T-76 failed to meet the conditions in the standards described in LAC 33:III.2103.D.2, and therefore the Respondent was required to notify the administrative authority within seven (7) days of discovering that the conditions were not met. The Respondent failed to notify the Department of not meeting the conditions described in LAC 33:III.2103.D.2 within seven (7) days, in violation of LAC 33:III.2103.D.2.e as indicated in the Louisiana Refinery MACT Determination. This is also a violation of Specific Condition No. 17 letter B of Air Permit No. 0500-00005-07, LAC 33:III.501.C.4, the facility's Compliance Schedule (Attachment I to Air Toxics Compliance Plan No. CC92061) approved July 5, 1995, LAC 33:III.5109.A.1, and Section 2057(A)(2) of the Act.

- F. During the inspection, it was noted that product was spilled around the sample hatch on the roof of Storage Tank No. T-43. The Respondent failed to clean up spills of VOC by employing procedures that reduce or eliminate the emissions of VOC. This is a violation of LAC 33:III.2113.A.1 and Section 2057(A)(2) of the Act.
- G. The Respondent is to comply with all applicable provisions of LAC 33:III.Chapter 15 (Emission Standards for Sulfur Dioxide). In particular, LAC 33:III.1503.B requires that the emission of sulfur oxides calculated as sulfur dioxide (SO<sub>2</sub>) from an existing sulfur recovery plant shall be limited to a SO<sub>2</sub> concentration of not more than 1,300 ppm by volume (three-hour rolling average). However, it was noted during the inspection, that the Respondent had reported on the Third Quarter 2001 Performance and Excess Emissions Report dated October 19, 2001, that the sulfur recovery unit (SRU) had at least eight (8) incidents for 2,400 minutes where the SO<sub>2</sub> emissions were over the 1,300 ppm/three-hour rolling average. In addition, three-hour rolling average SO<sub>2</sub> concentration data supplied by the Respondent at the request of the Department indicated additional incidents in which SO<sub>2</sub> emissions were over 1,300 ppm by volume (three-hour rolling average). The three-hour rolling average data covered the period beginning on May 1, 2001, and ending on January 1, 2002. The Respondent's exceedances of the 1,300 ppm by volume (three-hour rolling average) is a violation of LAC 33:III.1503.B, Specific Condition No. 15 of Air Permit No. 0500-00005-07, LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The Respondent is in possession of radiation sources in Louisiana under the provisions of Louisiana Registration Number 4017 issued by the Department.

On January 25, 2002, an inspection of the Respondent's radiography crew revealed the following violations:

- A. The Respondent failed to maintain source inventory records of the detector cells at the facility, in violation of LAC 33:XV.104.D.
- B. The Respondent failed to either submit an application for renewal of the facility's RAM license or to notify the Department that the facility would not renew its RAM license at least thirty (30) days before the expiration date, in violation of LAC 33:XV.332.C.1 and 2.
- C. The Respondent failed to maintain records of leak testing at the facility, in violation of LAC 33:XV.426.D.

### III.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### IV.

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) of which One Thousand Nine Hundred Twenty-Two and No/100 Dollars (\$1,922.00) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

### V.

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or

permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VI.

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

#### VII.

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

#### VIII.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Caddo Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX.

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.



CALUMET LUBRICANTS CO.,  
LIMITED PARTNERSHIP

BY:   
(Signature)

Allan Moyes  
(Printed or Typed)

TITLE: Executive Vice President

THUS DONE AND SIGNED in duplicate original before me this 16<sup>th</sup> day of  
March, 20 05, at Indianapolis, Indiana.

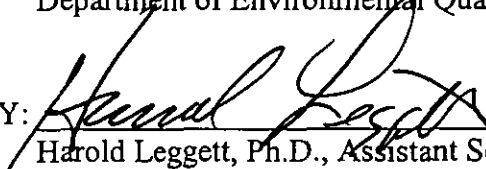
  
NOTARY PUBLIC (ID # \_\_\_\_\_)

JANET SUE SCOTT  
(Printed or Typed)

JANET SUE SCOTT  
NOTARY PUBLIC STATE OF INDIANA  
MARION COUNTY

~~MY COMMISSION EXPIRES 12/31/2003~~  
~~STATE OF LOUISIANA~~

Mike D. McDaniel, Ph.D., Secretary  
Department of Environmental Quality

BY:   
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 15 day of  
June, 20 05, at Baton Rouge, Louisiana

  
NOTARY PUBLIC (ID # 216723)

C. Allen Kirkpatrick  
(Printed or Typed)

Approved:   
Harold Leggett, Ph.D., Assistant Secretary

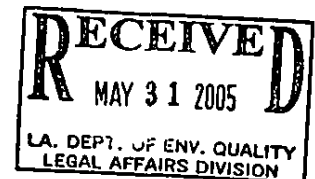


CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

May 19, 2005

Mr. Herman Robinson, Executive Counsel  
La. Department of Environmental Quality  
Legal Affairs Division  
P.O. Box 4302  
Baton Rouge, LA 70821-4302

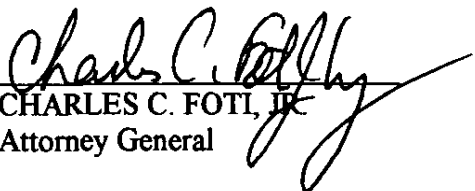


Re: AG Review of DEQ Settlement;  
Calumet Lubricants Co., Limited Partnership  
MM-CN-02-0043

Dear Mr. Robinson:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By:   
CHARLES C. FOTI, JR.  
Attorney General

CCF/mlc